



STATE OF WASHINGTON
OIL SPILL ADVISORY COUNCIL

302 14th Ave. PO Box 43113 * Olympia, Washington 98504-3113 * (360) 902-3061 * FAX (360) 664-8941
E-mail: osac@gov.wa.gov

Minutes

January 20, 2006
Department of Ecology Headquarters, Rm. R0A-32/34
300 Desmond Dr., Lacey, WA

Members Present: Chairman Mike Cooper, Philip Bannan, Brett Bishop, Pam Bissonnette, Jim Davis, Mike Doherty, Stuart Downer, Kathy Fletcher, Harlan James, Nick Jones, Gerald Joyce, Michael Moore, Lee Roussel, John Schumacher, Jeff Shaw, Phil Winberry

Members Absent: Kevin Ranker, David Sones

Staff Present: Jacqui Brown Miller, Corey Nunlist

Chairman Cooper called the meeting to order at 8:00 a.m.

Draft Minutes (11-30 Meeting), Mission Statement, Work Plan Priorities and Milestones

The November 30 draft minutes, with changes made by Lee Roussel (Roussel) and Jeff Shaw (Shaw), were approved. The Council's mission statement was approved. The Council discussed the Priorities for 2006 document, which is a twelve-month prioritization of the Council's full work plan. The document, with a few wording changes, was approved.

The Council discussed the 2006 Milestones document, an outline for completing the twelve-month work plan. Several people voiced wishes to firmly schedule all meeting dates, times, and places through 2006.

All of these documents, as well as the updated meeting schedule, can be found on the Council's website.

Governor's Supplemental Budget

The Council discussed two items in the Governor's Supplemental Budget. The first, in House Bill (HB) 2610 and Senate Bill (SB) 6384, is \$1.45 million for grants to local communities for purchasing and caching oil spill response equipment. The second, in HB 2552 and SB 6386, is \$859,000 to the Department of Ecology (DOE, Ecology, Department) for additional FTEs to conduct fuel transfer inspections.

1 Chairman Cooper noted plans for using the \$1.45 million appropriation include
2 providing boom, trailers, and/or training to 35 locations around the state, and that he had
3 suggested to Ecology pilot projects for determining how grant money could best be used.

4 Kathy Fletcher (Fletcher) suggested the council support the budget, referring to a
5 recent Northwest Straits Commission study of Geographic Response Plans (GRPs) around
6 the state that noted an inadequate supply of boom to implement the plans. Stuart Downer
7 (Downer) suggested Ecology look at existing response companies and resources around
8 the state. Mike Moore (Moore) asked if grant money would be matched by local
9 communities, and asked about details surrounding the training of responders to use the
10 equipment. Nick Jones (Jones) questioned limiting grants to local governments and
11 ruling out groups like local first responders and shellfish growers. Gerald Joyce (Joyce)
12 asked if, because the appropriation is part of the Governor's Puget Sound Initiative, the
13 grants would only be given to Puget Sound communities.

14 In response to Joyce's question, Chairman Cooper noted the Budget language,
15 which states that the grants are for the placement of equipment at critical areas around the
16 state, implying not just Puget Sound communities. In response to Jones's concern,
17 Council members suggested Ecology would grant money to local governments, which in
18 turn would supply responder groups with the equipment and training.

19 Many of these questions went unanswered until the afternoon, when Dale Jensen
20 (Jensen), the Department of Ecology's Spills Program Manager, arrived to speak before
21 the Council on Ecology's budget. He said Ecology is not asking local governments to
22 match the grants; that Ecology has done a preliminary prioritization of areas for caching
23 equipment, although the Department has taken care to not identify specific points at this
24 time; and that, because Ecology only has one year to distribute grant money, pilot
25 projects are infeasible.

26 The Council directed Chairman Cooper to write a letter supporting the budget that
27 mentions: pilot projects; prioritization of governments/areas to receive grant money;
28 distributing money and equipment to local first responders; and the deficiency of the
29 Geographic Response Plans (GRPs).

30 Introduction of Congressman Inslee's Staff and Review of Federal Legislation

31 Kennie Endelman, Tracy Nagelbush, and Adam Bartz introduced themselves as
32 members of Congressman Jay Inslee's Staff. Nagelbush said that Congressman Inslee
33 does not want to preempt state oil spill regulations, briefed the Council on the
34 Congressman's legislation, and invited input.

35 Moore questioned the legislation's application to transfers involving any vessel
36 with a capacity of at least 250 barrels of oil, rather than transfers of 250 barrels or more,
37 noting that with this language transfers as small as one liter could be affected. Endelman
38 replied it was primarily the result of Coast Guard recommendations, and the intent is to
39 let the Coast Guard and the State write specific rules and regulations. Moore also asked
40 if any risk-assessment or cost-benefit analyses have been done to determine the
41 effectiveness of applying legislation to particular types and volumes of transfers
42 versus applying the legislation universally to all transfers. Nagelbush replied that no such
43 studies have been done yet.

44 Fletcher cautioned against changing the 250 barrel limit.
45

1 Jim Davis (Davis) asked if mobile facilities had been considered. Endelman
2 replied they had, but reminded the Council the legislation stemmed from Coast Guard
3 recommendations. Chairman Cooper added that the State can regulate mobile facility
4 transfers without being preempted by federal legislation.

5 Shaw noted that terminals differ in exposure and climactic conditions. Endelman
6 replied that those factors were considered as well. Davis added that perhaps oil transfers
7 should not happen if booming is ineffective due to weather conditions.

8 Downer stressed that booming is containment after a spill and more emphasis
9 should be placed on prevention. Moore noted the Point Wells spill was exacerbated by a
10 lack of training and a regulation that exists in other areas requiring either pre-booming or
11 immediate (15 minute) containment of a spill.

12
13 Jacqui Brown Miller (Brown Miller) briefed the Council on Senator Maria
14 Cantwell's legislation. Chairman Cooper noted the legislation is a work in progress and
15 that Cantwell's staff is meeting with stakeholders to continually revise and improve the
16 document.

17 18 Review of State Legislation

19 Chairman Cooper briefed the Council on House Joint Memorial 4031 to preserve
20 the Magnuson Amendment (MA), which limits tanker traffic in Puget Sound, and invited
21 input and discussion.

22 Some council members felt more information was needed on the potential effects
23 a repeal might have. Moore wanted to look at whether a repeal of the Magnuson
24 Amendment would result in more tanker traffic given the current restrictions on tanker
25 size in Puget Sound. Many voiced support for the bill from their representative groups.
26 Davis noted that if a repeal of the MA wouldn't increase tanker traffic, then it is a moot
27 issue; if traffic would increase then, from an oil spill prevention standpoint, the MA
28 should stay. Jones added the MA marked the end of damaging large-scale
29 industrialization in Puget Sound and, whether or not the Amendment has any practical
30 significance, the Memorial to preserve it is a good gesture in that regard.

31 Chairman Cooper called a ten-minute break before reconvening to take a position
32 on the Memorial. Upon reconvening, consensus supporting the Memorial was reached.

33
34 Chairman Cooper invited discussion on Ecology's Request Legislation, SB 6244
35 and HB 2593, noting that any action, or lack of action, taken by the Council would be
36 conveyed to the appropriate people and committees in the legislature.

37 Fletcher noted the legislation clarifies authority the Department is supposed to
38 already have, and the recent refusal of Chevron to participate in an oil spill drill
39 underscores the need for that clarification. She added the Council should support
40 Ecology and should be concerned only with the legislation, not the rule-making process.

41 Moore suggested a version of Fletcher's comments, that the Council could take a
42 position that supports the legislative intent of the bill to clarify authority. The Council
43 agreed by consensus to support the legislative intent of SB 6244 and HB 2593.

44
45 The Council revisited the appropriation of \$859,000 for additional FTEs. Several
46 Council members wanted clarification on whether the number of additional FTEs

1 Ecology requested was three or six, and in either case why so much money was allocated
2 for those FTEs. Moore repeated a desire, expressed at previous Council meetings, to see
3 the current distribution of Ecology's FTEs and how it might change as the transfer and
4 contingency plan rule processes are concluded, and employees shift efforts from
5 writing the rules to enforcement and regulation. In light of the unanswered questions, the
6 Council agreed by consensus to support funding necessary for adequate FTEs to
7 implement Ecology's new contingency plan and transfer rules.

9 Neah Bay Rescue Tug – Presentation and Discussion

10 Brown Miller gave a presentation on the Neah Bay rescue tug (see, “Neah Bay
11 Tug” on web), with information to help the council make decisions concerning the future
12 of the tug. She welcomed comments from council members. Chairman Cooper invited
13 discussion.

15 As the Captain of the Port that issued Orders in the majority of these incidents,
16 Moore recommended that Captain of the Port Orders be reviewed, referenced and
17 included. The orders include the situation and the risk reduction measures intended by the
18 vessel master and/or required by the Captain of the Port for each incident. Moore pointed
19 out that the risk of each case was different and tug presence requirements were intended
20 to minimize risk until the situation was remedied or clarified to the satisfaction of the
21 authorities. In almost all cases referenced a tug was dispatched to provide a presence or
22 escort and a towing line was not used or needed, like in the cases of reduced propulsion
23 capabilities where the vessel proceeded on its own power. He noted the Coast Guard
24 study on rescue tugs used for Brown Miller’s presentation transposed national data to
25 Puget Sound, and the part that suggested a linear increase in vessel traffic with increases
26 in cargo amount has been proven incorrect; cargo has increased, but so has vessel size.
27 Moore also suggested developments in vessel tracking be considered, and offered to
28 provide comments to correct certain aspects of the presentation.

29 Joyce replied that transposing national data to Puget Sound is statistically useful.

30 Phil Winberry (Winberry) asked what numbers 5 and 6 were on slide 27 of Brown
31 Miller’s presentation. These numbers represent extended tug escorts for more vessels.

32 Fletcher noted the lack of Tug responses to oil tankers is a result of the small
33 percentage of vessel traffic tankers represent, and that the high risk probability of a
34 significant oil spill in Puget Sound (slide 10) is worthy of note. Chairman Cooper added
35 tankers are highly regulated, another potential reason for fewer tanker incidents.

36 Bannan asked if a consensus exists among the reports on whether or not the Neah
37 Bay tug is effective and vital. Chairman Cooper replied no, there is not a consensus.

38 Downer noted that often there is no capable response tug in, or West of, Port
39 Angeles, most capable tugs are near Seattle, and with tugs, bigger is not always better.

40 Mike Doherty (Doherty) suggested adding a section on the trustee responsibilities
41 of the State concerning the tribes and a section on the geographical difficulties of a
42 response on the Outer Coast. He requested information on financial offset to industry for
43 having tugs around, and suggested additional costs incurred could be distributed all the
44 way down to consumers, who probably will not mind paying a few extra cents for much
45 greater protection.

Chairman Cooper asked Harlan James (James) if it is possible to map tribes affected by an oil spill. James replied the tribes are working to better coordinate tribal resources and response.

Davis said using the Neah Bay tug for other purposes could restrict its ability to respond as a dedicated rescue tug. Shaw agreed and added the tug is not just a tanker issue because all large ships use it.

Roussel asked about an evaluation of tug towing capacity for larger ships that use the Sound. Downer replied that requirements for towing capacity, among other things, are considered when the state awards a tug contract, and are based on the heaviest ships.

Fletcher commented on the benefit of a dedicated crew, such as the Neah Bay tug crew, that work together for a long time, in contrast to more transient International Tugs of Opportunity System (ITOS) crews. Downer added the Neah Bay crew stayed when the ship was changed. He added a program has been set up to train members of the Makah tribe and other locals to work on tugs and other vessels.

Consultant Hiring Process

Chairman Cooper updated the Council on the process of hiring a consultant to support the Council's work. Selecting a consultant from a pre-approved vendor list or hiring a project employee/consultant combination are two possibilities. Chairman Cooper asked the Council how to proceed in this process. The Council directed Chairman Cooper and Staff to take steps necessary to hire a consultant, and to keep the Council informed of the process. Chairman Cooper said the Council will be notified when a shortlist is created and a subcommittee will be appointed to finalize the hiring.

Funding Discussion

Brown Miller asked the Council for suggestions relating to grant funding for 2007. Council members suggested looking at Puget Sound conservation groups, such as the Puget Sound Partnership, as possible grant funding sources. Doherty noted graduate students are a great source of high-quality work and could do small, specific projects for the Council. Moore suggested maintaining a list of topics for such purposes.

Brown Miller had Council members brainstorm values to be considered when allocating the burden of funding a state-of-the-art oil spill prevention program in Washington. Council members voted for the values they considered most important. The values listed by Council members, with number of votes in parentheses, are:

Equity (3)	Risk-based (9)
Responsibility (6)	Accountability (7)
Healthy Ecosystem (7)	Community Involvement (3)
Level Playing Field (3)	Sustainability (9)
Efficiency (2)	Effectiveness (2)
Seafood Production (0)	Cost-effectiveness (2)
Public Perception/Opinion (1)	Canadian Participation (1)
Cost Internalization vs. Externalization (2)	Treaty Rights/Duties (1)
Reasonability/Fairness (4)	Sustenance Cultures (0)
Security (2)	Certainty of Outcome (2)
Simplicity (7)	Local Economies (1)

Economic Stability (0)

Quality of Life (1)

These values and votes will be revisited when the Council begins its discussion on funding a state-of-the-art oil spill prevention program.

Derelict/Abandoned Vessels

Rick Mraz, with the Department of Natural Resources (DNR), gave a presentation (See “DNR Ppt.” on web) on the Derelict Vessel Removal Program (DVRP), for which he is program coordinator. Mraz detailed components of the program, how they work, and summarized amendments to the program proposed in SB 6223.

Lt. Christina Grim of the United States Coast Guard (CG) gave a presentation (see “CG Ppt.” on web) on Operation Trash Compactor, a new program for dealing with neglected vessels. The program verifies, prioritizes, and removes vessels on DVRP’s derelict vessels list. Lt. Grim offered suggestions for more efficient removal of derelict vessels, such as regulations that: make it easier for state and federal agencies to identify vessel owners; prevent vessels from becoming neglected or derelict, perhaps by more strictly regulating the amount of time vessels may be left at a pier or moored elsewhere; require removal of hazardous materials if a vessel is unused for a certain time; ensure better insurance coverage for vessels; require a ‘scrap fee’ for vessels based on length or tonnage to provide programs with more money for vessel removal.

Dave Byers, manager of the Response Section of Ecology's Spills Program, gave a presentation (see "Ecology Ppt. Summary" on web) on Ecology's role with derelict vessels. Byers reviewed several vessels Ecology, coordinating with other agencies, has responded to. He noted current derelict vessel laws allow effective participation by Ecology and the Department supports the amendments to SB 6223. He added Ecology wants more stringent insurance requirements for certain size vessels, and an education/outreach program to inform vessel owners of costs and liability associated with derelict vessels.

Chairman Cooper invited Mraz, Grim, and Byers to discuss ways to improve the process of preventing and removing derelict vessels.

Moore asked if DNR had considered cleaning and intentionally sinking some derelict vessels as artificial reefs like some other areas of the country. Mraz replied that usually costs more than removing the vessel. Moore asked what percentage of reports that DNR receives turn out not to be derelict vessels. Mraz replied one or two of ten. Mraz added that in 2005, Ecology, CG, and DNR enjoyed great success in coordinating efforts to remove derelict vessels.

Chairman Cooper asked about total costs not yet recovered by Ecology and CG for removal of oil and pollution from derelict vessels. Mraz replied no costs had been recovered and DNR has reimbursed or spent about \$630,000 since the program's inception. Mraz continued that DNR, when acting as an authorized public entity (APE) to remove a vessel, pays 75% of the costs from the derelict vessel removal account and 25% from an Aquatic Lands Enhancement Account allotment. The biennial allotment for 2005-07 was \$100,000. Mraz noted the \$100,000 could stretch much further under the 90-10% split that SB 6223 proposes.

1 Chairman Cooper asked Byers if Ecology is authorized, under state law, to open
2 the dedicated state oil spill response account. Byers replied yes, but there must be a
3 threat to navigable waters of the State and estimated removal costs must exceed \$50,000.
4 Byers added most costs do not exceed \$50,000.

5 Chairman Cooper asked about tribal participation in removing derelict vessels.
6 Grim replied tribes are typically proactive about raising neglected vessels, but are not
7 eligible for reimbursement because they are not APEs.

8 Joyce asked what could be done for derelict vessels over 200 feet in length. Mraz
9 replied nothing yet, but there has been discussion of a federal derelict vessel law. Moore
10 added if a large vessel poses a significant threat, CG can take steps to mitigate it.

11 Joyce asked how to prevent repeat offenders. Grim suggested Operation Trash
12 Compactor may help by taking a more preventative stance on derelict vessels.

13 Jones asked about public port responsibility, noting ports auction derelict vessels
14 for as little as \$1. Bannan noted a process that allows a port to take control of a vessel,
15 after which the vessel is auctioned. Bannan added the vessels are often in poor shape, but
16 the ports ensure the vessels are operable and insured.

17 Mraz noted two changes in SB 6223 that would allow ports to be more active in
18 the removal of derelict vessels: the 90-10% split of costs, and the merging of port and
19 DNR statutes regarding procedural steps to take action on derelict vessels. He added
20 private marinas are also frequently guilty of sending out derelict vessels.

21 Jones asked about the line of command for sank boats that are not in a port district
22 or leaking oil. Grim replied if it is a large vessel, CG activates the oil spill liability trust
23 fund to raise the vessel. It then falls under DNR jurisdiction. Jones mentioned boatyards
24 often intentionally sink derelict vessels, which ends up costing the State significantly
25 more money. He asked what measures would preempt boats from being passed down
26 and becoming derelict. Mraz suggested an insurance component on registration.

27 Davis asked if derelict vessels on the DVRP list are increasing, and what DNR
28 needs to deal with it. Mraz answered the number of derelict vessels is increasing, and
29 that DNR could benefit from a more aggressive removal program and higher profile.

30 Joyce asked about insurance requirements for those providing moorages. Byers
31 replied even vessels moored at marinas that require insurance slip by uninsured at times.

32 Shaw asked about the scuttling of boats. Byers replied the practice exists.
33

34 Chairman Cooper asked if there was consensus to support SB 6223. The Council
35 reached consensus to support the bill. Moore recommended that Chairman Cooper
36 personally testify at the appropriate committee hearings to show the Council's support for
37 strengthening the DVRP through the proposed legislation.
38

39 Public Comment

40 Tom Copeland recommended the use of technical advisory committees to support
41 the Council's work, noting the utility and wealth of information these committees have
42 provided the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC).
43 He noted the potential use of these committees in, among other things, the consultant
44 hiring process. Copeland noted the four technical advisory committees in the
45 PWSRCAC are for: oil spill prevention and response, vessel traffic and port operations,
46 monitoring terminals, and scientific support.

1
2 Fred Felleman noted the comment period for the CG Salvage and Firefighting
3 Rule is due on February 20th. He noted the Ecology study on using commercial fishing
4 vessels in spill response has some severely flawed assumptions that should be addressed.
5 He mentioned the Council, when discussing the Neah Bay tug, should examine a 1991
6 legislative mandate to create a response system for the Strait of Juan De Fuca, note the
7 inland location of Washington's high volume port line, and note that 'salvage'
8 encompasses a wide range of activities the Neah Bay tug, if properly equipped, could do
9 effectively without compromising its other duties. Felleman noted that, although the
10 Council and State are supporting the Memorial to preserve the Magnuson Amendment,
11 the State is not enforcing the Amendment and is exposing state waters to greater risk as a
12 result. He noted that tank barges are tank vessels, and the estimate that tank vessels
13 constitute 10% of traffic in Puget Sound should be revised to 25%. He noted the Area To
14 Be Avoided still brings vessels very close to Duntze Rock. He suggested Congressman
15 Inslee's legislation should have express non-preemption language to ensure current and
16 future state rules and regulations will be enforced. He added concerns over Senator
17 Cantwell's legislation focusing on rescue and response tugs, as opposed to tug escorts.
18

19 Rich Berkawitz thanked the Council for its efforts in oil spill issues. He noted
20 much has changed in oil spill prevention and response since the Exxon Valdez spill and
21 Washington's oil spill record is quite good. He recommended the State not forsake
22 prevention for response. He noted shipping companies make efforts to reduce risk and
23 prevent incidents, and asking them to fund a rescue tug at Neah Bay makes safety and
24 risk-reduction recommendations less significant. He added ITOS is an effective system,
25 giving a recent example of a tug in North Carolina that saved lives and successfully
26 reattached a towline to a drifting ship.
27

28 Discussion of Department of Ecology Budget

29 Dale Jensen (Jensen) spoke before the Council on aspects of Ecology's budget.
30 He noted the \$859,000 in the Governor's Budget covers all costs associated with the six
31 new FTEs for fuel transfer inspections, and that Ecology's FTEs are generally more
32 expensive because of associated gear and training.

33 Referring to the \$1.45 million in the Governor's Budget for purchasing and
34 caching response equipment around the state, Jensen mentioned the money had been
35 moved to a local toxics account and can only be distributed through grants. Jensen
36 expressed wishes that money be moved to state toxics to providing more flexibility.

37 Winberry asked about other equipment caches in the state. Jensen replied the
38 information can be found on Ecology's website.

39 Davis asked about control of the equipment, and whether it would be used to
40 protect environmental or economic interests. Jensen replied containing the source is first
41 priority and Unified Command will decide after that. Jensen also expressed hope that
42 Ecology will be able to use and move the equipment no matter how it gets distributed.

43 Doherty asked if there is a graph showing all Spills Program equipment and FTEs,
44 and if there are any FTEs from Port Townsend to Grays Harbor. Jensen replied there
45 were not, and that FTEs are placed based on available risk and spill data.

1 John Schumacher (Schumacher) asked if Model Toxics Control Act (MTCA)
2 money is used for spill response equipment, and if that is acceptable. Jensen replied yes,
3 MTCA money has always been used for spill response and equipment and much damage
4 has been prevented as a result.

5 Chairman Cooper noted MTCA money will be examined in greater detail later.

6 Moore asked about the distribution of Ecology FTEs and what tasks they do.
7 Jensen replied the Spills Program work plan is broken down into tenths of an FTE and
8 explaining it takes much time. Chairman Cooper noted Jensen will be invited to discuss
9 the matter in more detail at future meetings. Moore asked if Council members could ask
10 questions before the next meeting to focus the discussion. Jensen replied yes.

11 12 Closing Remarks

13 Bannan and Schumacher lauded the oil spill course put on by CG and Ecology
14 and recommended Council members attend any similar opportunity. Joyce added CG
15 mentioned additional training sessions for the Council.

16 Doherty suggested the Council issue a press release every six months to inform
17 the public of the Council's work and goals, and oil spill matters in Washington. He
18 suggested optional informative field trips for Council members to take on the day before
19 scheduled meetings. Shaw added offers for tanker tours.

20
21 Chairman Cooper adjourned the meeting at 5:10 p.m.